

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2412

By Committee on Appropriations

2-22

1 AN ACT concerning the attorney general; enacting the Kansas fights
2 addiction act; providing for the expenditure of moneys recovered in
3 opioid litigation; establishing a grant program to address the effects of
4 substance abuse and addiction; Kansas fights addiction grant review
5 board; Kansas fights addiction fund **and municipalities fight**
6 **addiction fund.**

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. Sections 1 through 7, and amendments thereto, shall be
10 known and may be cited as the Kansas fights addiction act.

11 Sec. 2. As used in sections 1 through 7, and amendments thereto:

12 (a) "Act" means the Kansas fights addiction act.

13 (b) "Covered conduct" means any conduct covered by opioid
14 litigation that resulted in payment of moneys into the Kansas fights
15 addiction fund.

16 (c) "Defendant" means a defendant or putative defendant in any
17 opioid litigation.

18 (d) "Moneys that are received" includes damages, penalties, attorney
19 fees, costs, disbursements, refunds, rebates or any other monetary payment
20 made or paid by any defendant by reason of any judgment, consent decree
21 or settlement, after payment of any costs or fees allocated by court order.

22 (e) "Municipality" means the same as defined in K.S.A. 75-6102, and
23 amendments thereto.

24 (f) "Opioid litigation" means any civil lawsuit, demand or settlement,
25 including any settlement in lieu of litigation, alleging unlawful conduct in
26 the manufacturing, marketing, distribution, prescribing or other use of
27 opioid medications and asserting or resolving claims of the state or any
28 municipality.

29 (g) "Qualified applicant" means any state entity, municipality or not-
30 for-profit private entity that provides services for the purpose of
31 preventing, reducing, treating or otherwise abating or remediating
32 substance abuse or addiction and that has released its legal claims arising
33 from covered conduct against each defendant that is required by opioid
34 litigation to pay into the fund.

35 (h) "State" means the state of Kansas, including any agency or
36 official thereof.

1 (i) "Sunflower foundation" means the sunflower foundation: health
2 care for Kansas, established pursuant to the settlement agreement entered
3 into by the attorney general in the action filed by blue cross and blue
4 shield of Kansas, inc., in the district court of Shawnee county, Kansas,
5 case No. 97CV608.

6 Sec. 3. (a) Notwithstanding any other provision of law to the contrary,
7 the attorney general shall remit to the state treasurer in accordance with
8 K.S.A. 75-4215, and amendments thereto, all moneys that are received by
9 the state pursuant to opioid litigation in which the attorney general is
10 involved that is dedicated by the terms of such litigation for the abatement
11 or remediation of substance abuse or addiction. Upon receipt of each such
12 remittance, the state treasurer shall deposit the entire amount into the state
13 treasury ~~to the credit of. The state treasurer shall credit 75% of each~~
14 **such deposit to the Kansas fights addiction fund and 25% of each such**
15 **deposit to the municipalities fight addiction fund.**

16 (b) There is hereby established in the state treasury the Kansas fights
17 addiction fund, and such fund shall be administered by the attorney
18 general. Moneys in the Kansas fights addiction fund shall be expended
19 subject to any agreement authorized under section 4(d), and amendments
20 thereto, for grants approved by the Kansas fights addiction grant review
21 board created by section 4, and amendments thereto, to qualified
22 applicants for projects and activities that prevent, reduce, treat or mitigate
23 the effects of substance abuse and addiction. Any such expenditure for a
24 grant shall not be used to supplant any other source of funding. No moneys
25 shall be expended from the Kansas fights addiction fund for the payment
26 of litigation costs, expenses or attorney fees related to opioid litigation. ~~All~~
27 ~~expenditures from the Kansas fights addiction fund shall be made in~~
28 ~~accordance with appropriation acts upon warrants of the director of~~
29 ~~accounts and reports pursuant to vouchers approved by the attorney~~
30 ~~general or the attorney general's designee.~~

31 (c) **(1) There is hereby established in the state treasury the**
32 **municipalities fight addiction fund, and such fund shall be**
33 **administered by the attorney general to disburse funds to**
34 **municipalities. Moneys in the municipalities fight addiction fund shall**
35 **be expended subject to an agreement between the attorney general,**
36 **the Kansas association of counties and the league of Kansas**
37 **municipalities for projects and activities that prevent, reduce, treat or**
38 **mitigate the effects of substance abuse and addiction or to reimburse**
39 **the municipality for previous expenses related to substance abuse**
40 **mitigation or arising from covered conduct. Moneys may also be used**
41 **to reimburse municipalities for the payment of litigation costs,**
42 **expenses or attorney fees related to opioid litigation, but a**
43 **municipality shall first seek payment from applicable outside**

1 settlement sources or settlement fee funds prior to seeking payment
2 from the municipalities fight addiction fund.

3 (2) An agreement between the attorney general, the Kansas
4 association of counties and the league of Kansas municipalities shall
5 determine the method for disbursing money from the fund, and
6 moneys shall be disbursed to municipalities that have not filed opioid
7 litigation and municipalities that have filed opioid litigation, but have
8 entered into an agreement with the attorney general prior to January
9 1, 2022, that releases the municipality's legal claims arising from
10 covered conduct to the attorney general and assigns any future legal
11 claims arising from covered conduct to the attorney general.

12 (d) All expenditures from the Kansas fights addiction fund and
13 the municipalities fight addiction fund shall be made in accordance
14 with appropriation acts upon warrants of the director of accounts and
15 reports pursuant to vouchers approved by the attorney general or the
16 attorney general's designee.

17 Sec. 4. (a) There is hereby created under the jurisdiction of the
18 attorney general the Kansas fights addiction grant review board. At least
19 one member of such board shall reside in each of the state's congressional
20 districts. Each member shall serve at the pleasure of the appointing
21 authority. Such board shall be composed of 11 members who have
22 expertise in the prevention, reduction, treatment or mitigation of the effects
23 of substance abuse and addiction, as follows:

24 (1) Two members appointed by the attorney general, one of whom
25 shall be designated as chairperson of the board and at least one of whom
26 shall be appointed after consultation with **the Kansas association of**
27 **addiction professionals**;

28 (2) one member appointed by the governor;

29 (3) one member appointed by the president of the senate;

30 (4) one member appointed by the speaker of the house of
31 representatives;

32 (5) one member appointed by the minority leader of the senate;

33 (6) one member appointed by the minority leader of the house of
34 representatives;

35 (7) one member appointed by the league of Kansas municipalities;

36 (8) one member appointed by the Kansas association of counties;

37 (9) one member appointed by the Kansas county and district
38 attorneys association; and

39 (10) one member appointed by the association of community mental
40 health centers of Kansas ~~after consultation with the Kansas association of~~
41 ~~addiction professionals~~.

42 (b) The board shall receive and consider applications for grants of
43 money from the Kansas fights addiction fund. Not fewer than six members

1 of the board voting in the affirmative shall be necessary to approve each
2 grant, and each member shall have one vote. The board may adopt rules
3 and procedures for its operation, conduct hearings, receive testimony and
4 gather information to assist in its powers, duties and functions under this
5 act.

6 (c) In awarding grants, the board:

7 (1) Shall take care to support services throughout the state and shall
8 ensure not less than $\frac{1}{8}$ of the total amount of moneys granted each
9 calendar year shall be for services in each of the state's congressional
10 districts;

11 (2) shall take into account science and data-driven substance abuse
12 prevention reduction, treatment or mitigation strategies;

13 (3) shall consult with the Kansas prescription drug and opioid
14 advisory committee, the department of health and environment, the
15 insurance department and other appropriate public and private entities to
16 ensure coordination of drug abuse and addiction prevention and mitigation
17 efforts throughout the state;

18 (4) shall approve grants only in compliance with the requirements of
19 section 3, and amendments thereto;

20 (5) shall consider the sustainability of programming after grant funds
21 are exhausted;

22 (6) may establish conditions for the award of grants and require
23 assurance and subsequent review to ensure such conditions are satisfied;

24 (7) may give preference to qualified applicants that are not otherwise
25 seeking or receiving funds from opioid litigation; and

26 (8) may give preference to grants that expand availability of certified
27 drug abuse treatment programs authorized by K.S.A. 2020 Supp. 21-6824,
28 and amendments thereto.

29 (d) (1) The attorney general shall provide administrative support for
30 the board and shall administer, monitor and assure compliance with
31 conditions on grants awarded.

32 (2) To carry out the duties and responsibilities under paragraph (1),
33 the attorney general may enter into an agreement with the sunflower
34 foundation to provide such administration, monitoring and assurance of
35 compliance. Such agreement may:

36 (A) Provide for the attorney general to periodically transfer moneys
37 from the Kansas fights addiction fund to the sunflower foundation. The
38 sunflower administration shall administer any such moneys in a manner
39 consistent with this act and with grants approved by the board. If an
40 agreement authorized by this subsection is in effect, the attorney general
41 may transfer moneys from the Kansas fights addiction fund to the
42 sunflower foundation pursuant to such agreement;

43 (B) provide for a reasonable fee or other compensation for the

1 sunflower foundation for services related to this act;

2 (C) make provision for the use of any earnings on moneys transferred
3 to the sunflower foundation pursuant to this act and invested by the
4 sunflower foundation; and

5 (D) contain other provisions as may be reasonably necessary and
6 appropriate to carry out the provisions of this act.

7 **(3) The attorney general may take any action necessary to ensure**
8 **the greatest possible recovery from opioid litigation and to seek funds**
9 **for the Kansas fights addiction fund and the municipalities fight**
10 **addiction fund.**

11 (e) Members of the board shall not receive compensation or expenses
12 for serving on the board. Each member shall file a statement of substantial
13 interest as provided in K.S.A. 46-248 through 46-252, and amendments
14 thereto. No member shall participate in the consideration of any grant
15 application for which such member has a conflict of interest.

16 Sec. 5. The attorney general and each municipality shall be solely
17 responsible for paying all costs, expenses and attorney fees arising from
18 opioid litigation brought under their respective authorities, including any
19 attorney fees owed to private legal counsel, and may seek payment or
20 reimbursement of such costs, expenses and attorney fees from moneys not
21 ~~subject to the requirements of section 2, and amendments thereto~~
22 **deposited in the Kansas fights addiction fund.**

23 Sec. 6. (a) Except as provided by subsection (b), on and after January
24 1, 2021, no municipality shall file or ~~maintain~~ **become a party to** opioid
25 litigation in any court without the prior approval of the attorney general.
26 Any municipality that filed **or became a party to** opioid litigation on or
27 after January 1, 2021, through the effective date of the Kansas fights
28 addiction act shall withdraw from such opioid litigation, unless such
29 municipality receives approval from the attorney general to maintain such
30 opioid litigation.

31 (b) This section shall not apply to or affect any **municipality that**
32 **filed or became a party to opioid** litigation ~~filed~~ in court prior to January
33 1, 2021.

34 Sec. 7. Not later than March 1 of each year, the Kansas fights
35 addiction grant review board shall submit to the speaker of the house of
36 representatives, the president of the senate, the governor and the attorney
37 general a report of the board's activities during the prior calendar year,
38 including:

39 (a) An accounting of moneys deposited into and expended from the
40 Kansas fights addiction fund;

41 (b) a summary of each approved grant, including the name and a
42 detailed description of the qualified applicant, the amount granted, the
43 justification for the grant with a detailed description of the grant's intended

- 1 use and any other relevant information the board deems appropriate;
- 2 (c) an explanation of how the board's actions during the year have
- 3 complied with the requirements of this act; and
- 4 (d) any other relevant information the board deems appropriate.
- 5 Sec. 8. This act shall take effect and be in force from and after its
- 6 publication in the Kansas register.